



## BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

### Advisory Opinion No. 06-04-004

Both State and County law provide that the County must not prohibit a County officer or employee from participating in politics, although the County may restrict the political activities of those who serve in a quasi-judicial capacity. A member of a County advisory board asks whether he can run for office in the Maryland House of Delegates and, if so, whether he can list his accomplishments as a board member in campaign literature. The Commission concludes that the advisory board member can run for office in the Maryland House of Delegates and list his accomplishments as a board member in campaign literature. But he must be careful not to suggest that the County or his advisory board has endorsed his candidacy.

State law (Md. Ann Code art. 13, § 13-103) and County law (County Charter § 405) provide that the County must not prohibit a County officer or employee from participating in politics. In 1998, County voters amended the Charter to allow the County to restrict the political activities of a County officer or employee (including members of boards and commissions) who serves in a quasi-judicial capacity.<sup>1</sup> In 2001, the County did just that, amending the ethics law to restrict the political activities of quasi-judicial officials. *See* § 19A-16A.

The advisory board member can run for office in the Maryland House of Delegates, given his right under State and County law to freely participate in political activities.

The Commission also concludes that the advisory board member may list his accomplishments as a board member in campaign literature. While § 19A-14(a) does provide that an employee “must not intentionally use the prestige of office for private gain or the gain of another,” the Commission does not consider the mere publication of an employee’s accomplishments in the pursuit of elected office to fall within this prohibition.<sup>2</sup> In a similar context, an employee would not violate this prohibition by listing his accomplishments in a

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<sup>1</sup> This amendment followed a State amendment to Md. Ann. Code art. 24, § 13-104, authorizing Montgomery County to limit the political activities of a County officer or employee who serves in a quasi-judicial capacity. The catalyst for this entire process can be traced to *Advisory Opinion 97-01*.

<sup>2</sup> In *Advisory Opinion 1997-1*, the Commission suggested that § 19A-14(a) might require a public employee to avoid using her County title in connection with “any” campaign activity. Such a broad statement was unnecessary for resolution of that matter, which focused on the participation by a member of the Board of Appeals in a fundraising activity on behalf of a political party. Furthermore, there is nothing in the ethics law that prohibits campaign signs that read: “Re-elect Councilmember X.” The prior Commission’s language, then, should be understood in the context of the opinion and not as a blanket prohibition. .

resume submitted to a potential private employer.

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:

A handwritten signature in cursive script, appearing to read "Richard N. Reback".

Richard N. Reback, Chair

September 1, 2006